

Pollution Response

1. PURPOSE/SCOPE

The purpose of this pollution response protocol is to coordinate response activities to maximize the effectiveness of available Department of Ecology (“Ecology”) and the USCG District Thirteen (“USCG”) resources devoted to pollution response. This protocol is also expected to leverage resources by bringing the diverse expertise of USCG and Ecology responders together to achieve safer response, while avoiding undue duplication of effort.

2. AUTHORITY/REFERENCES

Memorandum of Agreement on Oil Pollution Prevention and Response between the Commander, Thirteenth Coast Guard District and the State of Washington executed May 25, 2001. Section VII – Response to Oil Spills

Federal law established the Coast Guard as the primary Federal agency tasked with responding to oil spills on the navigable waters of the United States within the coastal zone. In such cases, the Federal On Scene Coordinator (FOSC) is the pre-designated official responsible for directing response actions. The FOSC may direct or monitor all Federal, State, and private actions in response to an oil spill or a potential oil spill in State waters. The Parties will respond to marine oil spills as required by and in accordance with the National Contingency Plan (NCP) and the Northwest Area Contingency Plan (NWACP). State law established Ecology as the primary State agency and State On Scene Coordinator (SOSC) tasked with responding to oil spills on State waters. As SOSC, Ecology represents the interests of other State Agencies and State Natural Resource Trustees.

Ecology

Statutes

- RCW 70.105 (Hazardous Waste Management Act)
RCW 70.105D (Model Toxics Control Act)
RCW 90.48 (Water Pollution Control)
RCW 90.56 (Oil and Hazardous Substance Spill Prevention and Response)

Regulations

- 173-181 WAC (Facility Contingency Plan and Response Contractor Standards
173-183 WAC (Preassessment Screening and Oil Spill Compensation Schedule
Regulations)
173-303 WAC (Dangerous Waste Regulations)
173-340 WAC (Model Toxics Control Act Cleanup Regulations)

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296-62 WAC (Part P Occupational Health Standards – Hazardous Waste Operations and Emergency Response)
 317-10 WAC (Vessel Contingency Plans and Response Contractor Standards)

Documents/Forms

Northwest Area Contingency Plan
 Geographic Response Plans
 Washington State Comprehensive Emergency Management Plan (CEMP)
 Spill Response Operations Manual
 Safety Training and Competency (SAFETRAC) Program
 Drill Training and Competency (DRILLTRAC) ICS Manual
 Field Operations Guide (FOG)

USCG

Statutes

33 USC 2701 (OPA 90)
 33 USC 1251 (Clean Water Act)
 33 USC 1321 (Federal Water Pollution Control Act, as amended, Section 311)
 33 USC 1471-1487 (Intervention of the High Seas Act)
 43 USC 1331 (Outer Continental Shelf Lands Act)
 42 USC 9601 (CERCLA)
 42 USC 6901 (RCRA)
 33 USC 401 (Refuse Act - Rivers and Harbors Act)
 46 USC 4701 (Abandoned Barge Act of 1992)
 33 USC 1221 (Ports and Waterways Safety Act of 1972)
 33 USC 1322 (Clean Vessel Act of 1992)
 33 USC 1901-1912 (Act to Prevent Pollution from Ships of 1980 – implements MARPOL)

Regulations

40 CFR 300 (NCP)
 33 CFR 6
 29 CFR 1910.120

Documents/Forms

Northwest Area Contingency Plan
 Geographic Response Plans
 CANUSPAC Pollution Plan
 Marine Information for Safety and Law Enforcement Process Guide (MISLE)
 Field Operations Guide (FOG), Incident Command System
 Marine Safety Manual (MSM), Volume 9, COMDTINST M16000.14
 MARPOL 73/78, Annex I

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National Pollution Fund Center User Reference Guide

3. EFFECTIVE DATE/POINTS OF CONTACT

This protocol will become effective upon signature of both parties.

The following persons will serve as points of contact for questions concerning this protocol and its implementation:

Ecology

Manager, Spills Program

Phone: (360) 407-7465

Fax: (360) 407-7288

Mailing Address: Washington Department of Ecology, Spills Program,
P.O. Box 47600, Olympia, WA 98504-7600

USCG

Marine Response Branch, Thirteenth Coast Guard District

Phone: (206) 220-7210

Fax: (206) 220-7225

Mailing Address: 915 Second Ave – Room 3506, Seattle, WA 98174

Marine Environmental Response (MER), MSO Portland

Phone: (503) 240-9301

Fax: (503) 240-9345

Mailing Address: USCG, MSO, 6767 N. Basin Ave., Portland, OR 97217

Marine Environmental Response (MER), MSO Puget Sound

Phone: (206) 217-6230

Fax: (206) 217-6345

Mailing Address: USCG, MSO Puget Sound, 1519 Alaskan Way S., Seattle, WA 98134-1192

4. POLICIES

It is the policy of the USCG and Ecology to coordinate response efforts to avoid duplication, and it is acknowledged that the USCG will request Ecology undertake response actions on a case-by-case basis. The frequency or conditions of such requests will vary according to the nature and source of the spill as well as the demand on USCG resources for other CG missions. In general the Parties agree to the following:

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- The USCG will gather data on all spills occurring within its jurisdiction and issue penalties, as appropriate, to recreational boaters and other non-commercial entities.
- Ecology collects statewide spill information in the Environmental Report Tracking System (ERTS).
- The USCG will typically respond and investigate spills, potential spills or violations of pollution prevention regulations from all regulated commercial sources, regardless of state response actions.
- Ecology will act as primary responder for the four sub-categories of incidents listed in this paragraph. Ecology will contact the responsible USCG FOSC if they are unable to respond to the following incidents:
 - To derelict vessels that have grounded or sunk. The USCG will provide technical support as requested.
 - To abandoned drum incidents (unknown contents).
 - To sheens that have no apparent source and that can be verified using other reliable parties. If the sheen is recoverable, the USCG will endorse funding for the response
 - To recreational vessel spills of 100 gallons or less.
- The USCG will support Ecology's response to the aforementioned incidents through funding from the Oil Spill Liability Trust Fund as managed by the National Pollution Funds Center. Oil Spill Liability Trust Fund funding will be limited to that allowed by 33 CFR 133 et. seq. or other applicable federal law.
- It is the policy of the USCG and Ecology to respond to spills and manage clean-up efforts using principals of Unified Command, as outlined in the Northwest Area Contingency Plan.
- It is the policy of the USCG and Ecology to encourage spillers and responsible parties to immediately make all appropriate Federal and State notifications, including notification to the National Response Center at 1-800-424-8802 and the Washington Emergency Management Division at 1-800-258-5990.
- It is the policy of the USCG and Ecology to share any significant non-compliance violations observed.
- It is the policy of the USCG and Ecology to regularly review lessons learned and recommend changes to the ACP to enhance the protection of the Washington State marine environment.
- It is the policy of the USCG and Ecology to coordinate oil-sampling procedures to facilitate the quickest response available, and to provide confirmation when appropriate.
- It is the policy of the USCG and Ecology to endeavor to employ all oil spill response contractors equally so as to assist in observing their capabilities and keeping them proficient.
- It is the policy of the USCG and Ecology to coordinate with each other on all response issues requiring notification or coordination with Canada.
- It is the policy of the USCG and Ecology that documents shared with Ecology will be done pursuant to the Disclosure of Records protocol.

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- It is the policy of the USCG and Ecology to treat any materials shared as sensitive investigative materials, which shall not be further disseminated without the express permission of the originating agency, while the investigation is ongoing.
- It is the policy of the USCG and Ecology that the collection of evidence and samples will be jointly coordinated to reduce redundancy.
- Where oil spill samples are to be taken and there is any likelihood of potential criminal prosecution of the case, every effort should be made to avoid sending duplicate or split samples to different labs for analysis.

5. STANDARD OPERATING PROCEDURES

Frequency of Communication

- Ecology and USCG will provide the earliest possible notification of spills to each other. The Washington State Military Department's Division of Emergency Management will serve as the State POC. The responsible MSO's Command Center will serve as the USCG POC.
- Ecology and USCG will inform each other of any significant Federal/State violations observed during oil spill response immediately.
- Ecology and USCG will inform each other of any enforcement actions being taken following a joint response.
- Ecology and USCG pollution responders will meet quarterly to discuss and resolve any issues that may affect spill response efforts.
- Ecology Prevention Section Manager and the USCG Compliance Officers will meet at least twice a year to review oil spill cases and to identify issues related to spill response that need to be addressed.
- Ecology and USCG will copy each other on all Pollution Reports (POLREPS) or the equivalent.

USCG Task Detail

The USCG Marine Environmental Response Officer will:

- Coordinate enforcement actions with Ecology for oil spills jointly responded to by the USCG and Ecology.
- Provide all the necessary vessel information to assist Ecology in conducting spill response.

Ecology Task Detail

The Response Section Supervisor will:

- Communicate and resolve any issues that may affect the Ecology's ability to jointly respond to oil spills with the USCG.

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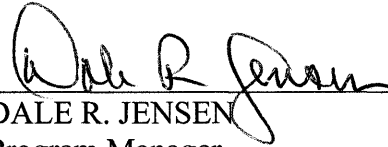
6. APPROVAL



M. S. BOOTHE

United States Coast Guard
Thirteenth Coast Guard District
Chief, Marine Safety Division

DATE: 5/30/2003



DALE R. JENSEN

Program Manager
Spill Prevention, Preparedness, and
Response Program
Washington Department of Ecology

DATE: 5-30-03